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8 *and David Mar*

9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**
12

13 BARRY C. ROWE,

14 Plaintiff,

15 vs.

16 ROMEO ARANAS, et al.,

17 Defendants.

Case No. 3:16-cv-00535-MMD-VPC

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO RESPOND
TO COMPLAINT**

18 Defendants, Romeo Aranas, Isidro Baca and David Mar, by and through counsel, Adam Paul
19 Laxalt, Attorney General of the State of Nevada, and Benjamin R. Johnson, Deputy Attorney General,
20 hereby move for a seven day extension of time to file a response to Plaintiff's Complaint. This motion
21 is based on the following Memorandum of Points and Authorities and all papers and pleadings on file
22 herein.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. LAW AND ARGUMENT

On June 21, 2017, Plaintiff's Civil Rights Complaint was screened and filed. (ECF No. 5 and 6). On September 25, 2017, Plaintiff filed a Notice of Filing of Supplemental Ground and Claim. (ECF No. 12). This appeared to be an attempt to amend the Complaint. On December 14, 2017, the Court held a hearing on Plaintiff's motion and denied the request to amend. (ECF No. 24). The Court set the deadline for filing a responsive pleading for January 8, 2018. (ECF No. 24).

Counsel for Defendants is finalizing a dispositive motion to be filed in Case No. 3:16-cv-00309-MMD-VPC. Counsel has spent considerable time preparing the motion for filing. Because the dispositive motion is due the same day as the responsive pleading in this case, additional time is necessary to respond to Plaintiff's Complaint.

FED. R. CIV. P. 6(b)(1) governs enlargements of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

The proper procedure, when additional time for any purpose is needed, is to present a request for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31 F.R.D. 282 (W.D.Pa. 1962). Extensions of time may always be asked for, and usually are granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

Defendants seek an enlargement of time to respond to the complaint. Good cause exists to extend the time to file this motion. Plaintiff will not be prejudiced by a small enlargement of time to respond to the complaint. The interests of justice are served by having complaints heard on their merits. This request is made in good faith and is not for the purposes of delay. Defendants request an extension of seven days to serve an Answer or otherwise respond to the Complaint.

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1 **II. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request their motion for enlargement of time is
3 granted and the deadline for filing a responsive complaint be extended seven days up to and including
4 January 15, 2018.

5 DATED this 8th day of January, 2018.

6 ADAM PAUL LAXALT
7 Attorney General

8 By:



9 BENJAMIN R. JOHNSON
10 Deputy Attorney General
11 State of Nevada
12 Bureau of Litigation
13 Public Safety Division

Attorneys for Defendant

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15 **IT IS SO ORDERED:**

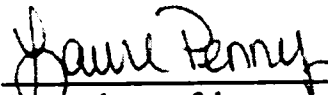
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17 **U.S. MAGISTRATE JUDGE**

18 **DATED:** January 9, 2017
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 8th day of January, 2018, I caused a copy of the foregoing, **DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO COMPLAINT**, to be served, by U.S. District Court CM/ECF Electronic Filing on the following:

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